

REMARKS

Claims 14-37 are pending in the captioned application. In the outstanding Official Action, the Examiner has required restriction of claims 14-37 to a single invention.

By this Response to Restriction Requirement, an election with traverse is made.

RESTRICTION REQUIREMENT SUMMARY

The Examiner has required restriction of claims 14-37 to a single invention under 35 U.S.C. §121 and 372. Claims 14-37 were subjected to a Restriction Requirement as follows:

- Group I: claims 14-33 and 35, drawn to an implant comprising at least one biodegradable thixotropic compound with pseudoplastic properties and implant comprising microparticles of at least one biocompatible ceramic compound;
- Group II: claim 34, drawn to a process for preparing an injectable implant;
- Group III: claim 36, drawn to a kit; and
- Group IV: claim 37, drawn to a process for filling wrinkles and/or fine lines and/or skin depressions and/or scars.

PROVISIONAL ELECTION

Applicants hereby provisionally elect Group I, an implant, drawn to claims 14-33 and 35 with traverse.

TRAVERSAL

Applicants respectfully traverse the Examiner's restriction/election requirement.

The restriction/election requirement is traversed because it omits "an appropriate explanation" as to the existence of a "serious burden" if restriction were not required. See MPEP 803.

The Examiner alleges that the inventions of Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because the inventions lack the same or corresponding special technical feature. Further, the Examiner alleges that the inventions of Groups I-IV have no special technical feature that defines a contribution over the prior art of WO 93/15721

The Examiner states that WO 93/15721 discloses an implant comprising biocompatible ceramics. The Examiner concluded that the disclosure of WO 93/15721 anticipates presently pending claim 14. Finally, the Examiner states that Group I does not share a special technical feature with the product and process claims of Groups II-IV. Further, the Examiner states that the claims are not so linked by a special technical feature within the meaning of PCT Rule 13.2 so as to form a single inventive concept, and unity between Groups I-IV is broken.

Applicants respectfully disagree with the Examiner's conclusion that the inventions of Groups I-IV do not contribute a special technical feature over the cited prior art. WO 93/15721 teaches a biocompatible ceramic material that is non-resorbable.

As presently pending claim 14 recites, the implant comprises "at least one

biodegradable thixotropic compound with pseudoplastic properties.” The ceramic particles of WO 93/15721 are non-resorbable and are not described as thixotropic with pseudoplastic properties. Therefore, the presently pending claims are not anticipated by WO 93/15721 as the Examiner suggests and Groups I-IV contributes a special technical feature over the cited art.

In addition, claim 36 (Group III) and claim 37 (Group IV) depend directly on claim 14 or claim 17 and, as a dependent claim, incorporate all of the limitations of the claim from which it depends. Accordingly, Groups I, III and IV all have the same special technical feature of the biodegradable thixotropic compound with pseudoplastic properties, as recited in Claim 14 and Claim 17. Therefore, Groups I, III and IV are so linked as to form a single inventive concept.

Claim 34, while not dependent on claim 14 (Group II), recites the same special technical feature of a biodegradable thixotropic compound with pseudoplastic properties. Accordingly, Groups I and II have the same special technical feature of the biodegradable thixotropic compound with pseudoplastic properties. Therefore, Groups I-IV are so linked as to form a single inventive concept.

Finally, Applicants have paid a filing fee for the examination of **all** the claims in this application. If the Examiner does not examine the claims paid for when filing this application and requires Applicants to file divisional applications for each of the groups of claims, the Examiner would essentially be forcing Applicants to pay duplicative fees for the non-elected or withdrawn claims, inasmuch as the original filing fees for the claims (which would be later prosecuted in divisional applications) are not refundable.

CONCLUSION

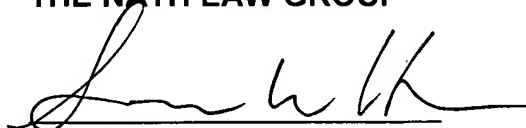
In view of the foregoing, applicants respectfully request the Examiner to reconsider and withdraw the restriction / election requirement, and to examine all of the claims pending in this application.

If the Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

In the event this paper is not timely filed, Applicants hereby petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

THE NATH LAW GROUP

A handwritten signature in black ink, appearing to read 'Gary M. Nath', is written over a horizontal line.

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Date: July 8, 2009
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